

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, NOVEMBER 8, 2006

10:02 A.M.

Reported by:
Peter Petty
Contract No. 150-04-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Arthur H. Rosenfeld

John L. Geesman

Jeffrey D. Byron

STAFF and CONTRACTORS PRESENT

B.B. Blevins, Executive Director

Jonathan Blees for Chief Counsel

Harriet Kallemeyn, Secretariat

Lorne Prescott

Caryn Holmes

John Kessler

James Reede, Jr.

Dick Ratliff

Susanne Garfield Jones

Michael Lozano

Brian Ellis

Asish Gautam

PUBLIC ADVISER

Margret Kim

ALSO PRESENT

Jesus Armas (via teleconference)
City of Hayward

Greg Trewitt
Tierra Energy, Eastshore Energy Center Project

ALSO PRESENT

Jane E. Luckhardt, Attorney
Downey Brand Attorneys, LLP
on behalf of Tierra Energy, Eastshore Energy
Center Project

Scott A. Galati, Attorney
Galata and Blek, LLP
on behalf of Pacific Gas and Electric Company
Humboldt Bay Repowering Project

Gregory Lamberg
Pacific Gas and Electric Company

David Jenkins
Panoche Energy Center, LLC
Bullard Energy Center, LLC

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1 P R O C E E D I N G S

2 10:02 a.m.

3 CHAIRPERSON PFANNENSTIEL: This is the
4 Energy Commission business meeting. Please join
5 me in the Pledge of Allegiance.

6 (Whereupon, the Pledge of Allegiance was
7 recited in unison.)

8 CHAIRPERSON PFANNENSTIEL: I think
9 people are still wandering in from the bake sale
10 outside.

11 Start with the consent calendar. Is
12 there a motion to approve the consent calendar?

13 COMMISSIONER ROSENFELD: I move the
14 consent calendar.

15 COMMISSIONER GEESMAN: Second.

16 CHAIRPERSON PFANNENSTIEL: In favor?
17 (Ayes.)

18 CHAIRPERSON PFANNENSTIEL: Consent
19 calendar is approved.

20 Item 2. 2.a. possible approval of the
21 Executive Director's data adequacy recommendation
22 for Eastshore Energy's application for
23 certification of the Eastshore Energy Center
24 project. Good morning.

25 MR. PRESCOTT: Good morning, Chairman

1 Pfannenstiel and Commissioners. My name's Lorne
2 Prescott. I'm the Staff Siting Project Manager
3 for the Eastshore Energy Center project. Staff
4 Counsel Caryn Holmes is here with me.

5 On September 22, 2006 Eastshore Energy
6 LLC filed an application for certification seeking
7 approval from the Energy Commission to construct
8 and operate the Eastshore Energy project on a
9 6.22-acre site in the City of Hayward.

10 The proposed project site is located
11 approximately one-half mile from the proposed site
12 for the Russell City Energy Center. Power from
13 the project would be delivered to the existing
14 PG&E Eastshore substation via a new 1.1-mile-long,
15 115 kV line along an existing PG&E transmission
16 corridor.

17 The project, as proposed, is a nominal
18 115.5 megawatt, natural-gas fired, simple-cycle
19 power plant, powered by 13 Wartsila reciprocating
20 engine generators.

21 The Eastshore project, as proposed, is a
22 12-month AFC. The project has a contract with
23 PG&E as a result of the PG&E request for offers
24 for new generation sources.

25 If the project is approved, construction

1 is scheduled to begin in the fourth quarter of
2 2007 and commercial operations are scheduled to
3 begin in the fourth quarter of 2008.

4 Agency comments have been received from
5 the Bay Area Air Quality Management District, the
6 City of Hayward's City Manager, and the City of
7 Hayward Fire Department.

8 The Air District has determined that the
9 AFC contains all the information required for the
10 District to prepare its determination of
11 compliance. The City Manager has expressed
12 concerns regarding the amount of time his
13 organization was allotted for the data adequacy
14 review of the AFC. And the concerns expressed by
15 the Hayward Fire Department have been assessed by
16 our staff and will be addressed during our
17 discovery and analysis phase.

18 Staff analysis has determined that the
19 project is data adequate for the 12-month process.
20 Staff now recommends that you find the AFC
21 complete and data adequate.

22 If the Commission agrees with this
23 recommendation, we would also request the
24 appointment of a Committee.

25 I'd be happy to answer any questions you

1 might have at this time.

2 CHAIRPERSON PFANNENSTIEL: Thank you.

3 Are there questions? Commissioner Geesman.

4 COMMISSIONER GEESMAN: I wonder if you
5 would elaborate on the City Manager's concerns and
6 how the staff views those.

7 MS. HOLMES: Good morning, Commissioner
8 Geesman. This is Caryn Holmes, Staff Counsel.
9 Fundamentally the City Manager expressed some
10 concern about the length of time that he was
11 provided to review the AFC.

12 We have explained that we expect City
13 involvement during the discovery phase; and that
14 we believe that many of the issues about which the
15 Fire Department, which has identified specific
16 concerns, would like us to address can be
17 addressed during the discovery phase. And, in
18 fact, are typically addressed during the discovery
19 phase.

20 CHAIRPERSON PFANNENSTIEL: I understand
21 that the City Manager is on the phone, and would
22 like to speak. Mr. Armas, are you there?

23 MR. ARMAS: I am, thank you.

24 CHAIRPERSON PFANNENSTIEL: Would you
25 like to address the Commission on your concerns?

1 MR. ARMAS: I would, and thank you for
2 the opportunity to address the Commission. My
3 name is Jesus Armas and I'm the City Manager for
4 the City of Hayward. And did correspond with Mr.
5 Prescott and did have a conversation with him and
6 others about my concerns.

7 Let me point out a couple of things.
8 The City is, of course, familiar with the CEC
9 process, having been involved, actively involved
10 in the review associated with the Russell City
11 Energy Center. And the Commission may recall the
12 City did support and continues to support the
13 development of that project.

14 In this instance what caught us a bit by
15 surprise was that in the context of this
16 application the applicant secured the land,
17 entered into agreements with PG&E for the delivery
18 of power, and really simply came to the City much
19 later, after the fact.

20 And so in terms of a comparison with
21 Russell City, one of the observations we made is
22 the collaborative nature of trying to understand
23 the issues was really absent in this case.

24 That being said, we, of course, are
25 having a number of conversations with

1 representatives from Tierra Energy to make sure we
2 address local issues and local concerns.

3 I recognize that during the discovery
4 phase there will be an opportunity to talk more
5 substantively of issues of concern. But the
6 letter I wrote simply said that even to determine
7 data adequacy insufficient time was provided to us
8 to review among all our different divisions and
9 departments, over 2800 pages of material.

10 And so we were a bit disappointed that
11 such abbreviated time was made available to us to
12 make that point.

13 On some more substantive matters I think
14 we do need to make certain that during the
15 discovery phase there is sufficient analysis made
16 relative to the cumulative impacts of adding this
17 facility to what's been associated with the
18 Russell City Energy Center. As I said, I've not
19 had the chance to review those 2800 pages to
20 determine whether that is being sufficiently
21 analyzed.

22 Additionally, it's not clear, reading
23 the table of contents, whether there are
24 alternative sites, or whether an alternative
25 analysis was performed leading to the conclusion

1 that this was the preferred location.

2 So, we believe that certainly in the
3 next phase those kinds of issues need to be
4 carefully and thoughtfully examined.

5 Locally, we will be scheduling, and the
6 applicant has submitted material to us, to have
7 both our planning commission and our city council
8 weigh in on the question of consistency with our
9 local zoning regulations in order to satisfy the
10 LORS component as it relates to land use.

11 Those are some initial comments and we
12 just want to make sure that those are on the
13 record. Obviously we have a year's time and the
14 discovery for the next steps. And so we're going
15 to be actively engaged in that. We welcome the
16 opportunity to offer input.

17 CHAIRPERSON PFANNENSTIEL: Thank you
18 very much for providing us with you comments and
19 your thoughts. We do, as you know, encourage your
20 input at every step in the process going forward.

21 Does the applicant have any comments?

22 MR. TREWITT: This is Greg Trewitt with
23 Tierra Energy -- my name is Greg Trewitt; I'm Vice
24 President of development and engineering for
25 Tierra Energy.

1 I just want to at this time thank the
2 staff and the Commission for getting to this point
3 with the project. We look forward to the next
4 phase of the project and working with staff and
5 the Commission. We also look forward to working
6 with the City of Hayward in addressing their
7 concerns with this project going forward at the
8 site. And all local neighbors and government
9 officials.

10 Thank you.

11 MS. LUCKHARDT: And I guess I'd just
12 like to add, this is Jane Luckhardt from Downey
13 Brand, that as you well know, within the
14 Commission process we will be analyzing,
15 evaluating the material that's been submitted on
16 cumulative impacts and alternatives that were
17 raised by Mr. Armas. And staff will be adding its
18 view of that, as well.

19 CHAIRPERSON PFANNENSTIEL: Thank you.
20 Any further -- yes, Commissioner Byron.

21 COMMISSIONER BYRON: I'm not familiar
22 with Tierra Energy, and I appreciate your being
23 here this morning. But in my short tenure on the
24 Commission I can tell you it is extremely
25 important to work closely with the local agencies.

1 So I encourage you to do so as we go through this
2 process.

3 MR. TREWITT: We're very sensitive to
4 that. Since we've bought this project back in May
5 of this year we have done a considerable amount of
6 outreach, both with the City and with the local
7 neighbors in the neighborhood. So we look forward
8 to continuing that as we go forward.

9 COMMISSIONER BYRON: Thank you.

10 CHAIRPERSON PFANNENSTIEL: Further
11 questions or discussions? Is there a motion to
12 approve the Executive Director's data adequacy
13 recommendation for Eastshore Energy Center?

14 COMMISSIONER GEESMAN: I move we approve
15 the recommendation.

16 COMMISSIONER BYRON: I'll second.

17 CHAIRPERSON PFANNENSTIEL: All in favor?

18 (Ayes.)

19 CHAIRPERSON PFANNENSTIEL: Thank you.
20 For Committee assignment, I propose a Committee of
21 Commissioner Byron as Presiding Member, and
22 Commissioner Geesman as Associate Member for this.
23 Is there a motion for that Committee?

24 COMMISSIONER ROSENFELD: I move that
25 Committee.

1 (Laughter.)

2 COMMISSIONER GEESMAN: I'll second the
3 motion.

4 CHAIRPERSON PFANNENSTIEL: All right.
5 All in favor of that Committee?

6 (Ayes.)

7 CHAIRPERSON PFANNENSTIEL: Thank you.

8 Item 3, possible approval of the
9 Executive Director's data adequacy recommendation
10 for Pacific Gas and Electric Company's application
11 for certification of the Humboldt Bay Repowering
12 project. Good morning.

13 MR. KESSLER: Good morning, Chairman and
14 Commissioners; my name is John Kessler; I'm the
15 Staff Project Manager for the Humboldt Bay
16 Repowering project application for certification.
17 With me is Caryn Holmes who's standing in for our
18 normal staff counsel Lisa DeCarlo.

19 PG&E is proposing this repowering
20 project to improve upon its existing facility, the
21 Humboldt Bay Power Plant, which is a less
22 efficient plant located near the City of Eureka in
23 Humboldt County.

24 The Humboldt Bay Repowering project is
25 proposed to be a load-following plant consisting

1 of ten natural-gas-fired Wartsila 16.3 megawatt
2 reciprocating engine generator sets with a
3 combined capacity of 163 megawatts.

4 The plant would be capable of running on
5 California Air Resources Board certified diesel
6 fuel in order to insure local area reliability in
7 the event of natural gas disruptions or
8 curtailments.

9 The project is a repowering of existing
10 units 1 and 2, having a combined capacity of 105
11 megawatts, as well as two 15-megawatt-each mobile
12 emergency power plants or CTs.

13 Humboldt Bay Repowering project has a
14 contract with PG&E, itself, as a result of the
15 2004 PG&E request for offers for new generation
16 resources. And as I understand it, what they do
17 is they acquired the bid, the rights to the bid
18 from Rampco who was the original bidder.

19 PG&E filed their AFC on September 29,
20 2006. If the project is approved they plan to
21 begin construction in the spring of 2008. Begin
22 commercial operation in the fall of 2009.

23 Staff initially found two technical
24 areas where data was inadequate, socioeconomics
25 and transmission system engineering. PG&E

1 provided a supplement to the AFC on November 3rd
2 which remedied these data deficiencies.

3 The California Coastal Commission has
4 reviewed the application for certification and has
5 indicated that the application is complete.

6 Staff now recommends that the Commission
7 accept the Humboldt Bay Repowering project
8 application for certification and its supplement
9 as complete and data adequate. If the Commission
10 agrees with this data adequacy recommendation we
11 would also request the appointment of a Committee.

12 I'd be happy to answer any questions you
13 might have.

14 CHAIRPERSON PFANNENSTIEL: Are there
15 questions? Comments from the applicant?

16 MR. GALATI: Scott Galati on behalf of
17 PG&E.

18 MR. LAMBERG: My name is Greg Lamberg;
19 I'm the Manager of Project Development for PG&E
20 and the manager of this project in particular.

21 It's been a long time since PG&E has sat
22 in the seat as an applicant; it's been over 25
23 years since we've filed an application for
24 certification. And I just wanted to give a
25 wholehearted thank you to the staff and

1 specifically to John Kessler and Eileen Allen for
2 their availability through all the prefiling
3 meetings and their guidance through this project.

4 I also would like to thank my team who's
5 here today, Joey Stickney from PG&E; Scott Galati
6 of Galati and Blek; Susan Strachan of Strachan
7 Consulting; and Nancy Matthews of the Sierra
8 Research.

9 We've very excited about this project.
10 This project represents a 30 percent increase in
11 efficiency versus the existing facility which just
12 celebrated its 50th birthday. The project
13 represents an 80 percent reduction in ozone
14 precursors and a 30 percent reduction in CO2
15 emissions as compared to the existing facility.

16 One of the real benefits of this project
17 we're most excited about is this project will
18 eliminate the use of once-through ocean cooling
19 through Humboldt Bay. We will eliminate the usage
20 of 45,000 gallons per minute of ocean seawater
21 cooling and go to a closed loop cooling system
22 that will only utilize 1.6 gallons per minute.
23 That is a single flush of a low-flow toilet per
24 minute.

25 And we are really enjoying tremendous

1 community support with this project right now
2 because of all the outreach that's been done over
3 the last six months.

4 And we thank you for having the
5 opportunity to be here before you today.

6 CHAIRPERSON PFANNENSTIEL: Thank you.
7 Are there questions? Discussion? Commissioner
8 Geesman.

9 COMMISSIONER GEESMAN: Did I understand
10 you to say that you've got a guy that flushes the
11 toilet every minute?

12 (Laughter.)

13 MR. LAMBERG: We're requisitioning that
14 guy right now. It's going to take a little while
15 to get all the paperwork done for the job
16 application, but --

17 COMMISSIONER GEESMAN: I would move that
18 we accept the recommendation.

19 CHAIRPERSON PFANNENSTIEL: Is there a
20 second?

21 COMMISSIONER BYRON: I second.

22 CHAIRPERSON PFANNENSTIEL: Before we
23 vote I will indicate that I'll recuse myself, as I
24 do from PG&E matters, based on past relationship
25 with PG&E.

1 But with that, all in favor?

2 (Ayes.)

3 CHAIRPERSON PFANNENSTIEL: Any opposed?

4 Thank you, the Executive Director's data adequacy
5 recommendation is approved.

6 A Committee assignment. I propose a
7 Committee of Commissioner Geesman, Presiding, and
8 Commissioner Byron as Second.

9 COMMISSIONER ROSENFELD: I move that
10 one, too.

11 (Laughter.)

12 COMMISSIONER BYRON: And I'll second it.

13 CHAIRPERSON PFANNENSTIEL: All in favor?

14 (Ayes.)

15 CHAIRPERSON PFANNENSTIEL: Again, I
16 recuse myself from that vote. Thank you.

17 MR. LAMBERG: Thank you.

18 CHAIRPERSON PFANNENSTIEL: You have a
19 data adequacy and a Committee.

20 Item number 4.a. Possible approval of
21 the Executive Director's data adequacy
22 recommendation for the Panoche Energy Center. And
23 we have Dr. Reede.

24 DR. REEDE: Good morning, Chairman
25 Pfannenstiel and Commissioners. My name is Dr.

1 James Reede; I'm the Energy Facility Siting
2 Project Manager for the Panoche Energy Center
3 project. And I have with me today Senior Staff
4 Counsel Dick Ratliff.

5 On August 2, 2006, Energy Investors
6 Funds, LLC, submitted an application for
7 certification to construct and operate a simple
8 cycle power plant, the Panoche Energy Center, in
9 an unincorporated area of western Fresno County,
10 located adjacent to the Pacific Gas and Electric
11 Panoche Substation and two existing peaker plants.

12 The proposed site will be located on a
13 12.8-acre site within a 128-acre parcel that is
14 currently in agricultural production and is
15 subject to a Williamson Act contract. The
16 construction laydown area, including parking,
17 consists of an 8-acre portion of the 128-acre
18 parcel immediately south of the site.

19 The plant site and construction area are
20 leased by the applicant from the property owners;
21 and an application to cancel the project site
22 portion of the Williamson Act contract land has
23 been filed by the applicant with Fresno County.

24 The project would be a nominal 400
25 megawatt, simple cycle power plant consisting of

1 four General Electric LMS100 natural-gas-fired
2 combustion turbine generators and associated
3 equipment. This plant is designed as a peaking
4 facility to meet electric generation load during
5 periods of high demand. And the project is
6 expected to have an annual capacity factor of
7 approximately 57 percent. The generators would
8 connect to the grid at the adjacent PG&E Panoche
9 Substation.

10 This project is proposed as a 12-month
11 application for certification. And the applicant
12 has a 20-year contract with PG&E as a result of
13 the 2004 PG&E request for offers for new
14 generation resources.

15 If the project is approved construction
16 is scheduled to begin the fourth quarter of 2007,
17 and commercial operations are also scheduled to
18 begin in the fourth quarter of 2008.

19 We have received written comments from
20 the San Joaquin Valley Air Pollution Control
21 District which indicate that the air permit
22 application was complete as of October 18, 2006.
23 The U.S. Environmental Protection Agency also
24 indicated that the application for deep injection
25 well permit was deemed complete on October 20th of

1 this year.

2 Now, staff analysis has determined that
3 the project is data adequate for the 12-month
4 process, and recommends that the AFC -- that the
5 Commission find this AFC data adequate.

6 If the Commission agrees with the
7 Executive Director's recommendation, we would also
8 request appointment of a Committee. And I'd be
9 happy to answer any questions at this point in
10 time.

11 CHAIRPERSON PFANNENSTIEL: Questions of
12 Dr. Reede? Can we hear from the applicant?

13 MR. JENKINS: Good morning, Chairman
14 Pfannenstiel and Commissioners; my name is David
15 Jenkins and I'm with Panoche Energy Center. On
16 behalf of our President, Gary Chandler, and our
17 counsel, Alan Thompson and others associated with
18 the project, we're thankful that we're to this
19 point this morning.

20 As Dr. Reede indicated, we did have a
21 number of inadequacies related to the initial
22 application. And we're very thankful that through
23 their guidance and persistence we were able to
24 overcome those and get to this point. And we
25 certainly would ask of you Commissioners that you

1 approve of this data adequacy recommendation.

2 CHAIRPERSON PFANNENSTIEL: Thank you.

3 Is there a motion to approve the Executive
4 Director's data adequacy recommendation for the
5 Panoche Energy Center?

6 COMMISSIONER GEESMAN: I move that we
7 approve the recommendation.

8 COMMISSIONER BYRON: And I second.

9 CHAIRPERSON PFANNENSTIEL: All in favor?
10 (Ayes.)

11 CHAIRPERSON PFANNENSTIEL: Thank you.
12 We have a Committee assigned; I propose a
13 Committee of Commissioner Byron Presiding, and
14 Commissioner Boyd as Second.

15 COMMISSIONER ROSENFELD: I move that
16 one, too.

17 (Laughter.)

18 COMMISSIONER GEESMAN: Second.

19 CHAIRPERSON PFANNENSTIEL: All in favor?
20 (Ayes.)

21 CHAIRPERSON PFANNENSTIEL: Thank you,
22 all.

23 MR. JENKINS: Thank you.

24 COMMISSIONER BYRON: Madam Chair.

25 CHAIRPERSON PFANNENSTIEL: Yes,

1 Commissioner Byron.

2 COMMISSIONER BYRON: I'd like to thank
3 both you and my fellow Commissioners. As a
4 relatively new Commissioner I certainly feel
5 needed and welcomed here.

6 (Laughter.)

7 CHAIRPERSON PFANNENSTIEL: And it's only
8 beginning. There will be more.

9 Item 5, Possible approval of amendment 4
10 to contract 150-04-002 adding \$50,000 through July
11 2007 to continue reporting services for Commission
12 hearings, workshops and other meetings. And I
13 should say this is with Peters Shorthand Reporting
14 Corporation. Yes, Ms. Garfield.

15 MS. GARFIELD JONES: Thank you,
16 Commissioners, good morning. My name is Susanne
17 Garfield Jones. And as you just read, we are
18 asking for an additional \$50,000 for this
19 contract. We naively under-estimated the number
20 of Committee and staff workshops, meetings and
21 hearings that have been requested to have
22 transcripts. So with these additional funds we
23 should be able to tide us over through June of
24 next year.

25 Do you have any questions?

1 CHAIRPERSON PFANNENSTIEL: Do we have a
2 motion?

3 COMMISSIONER GEESMAN: I move approval.

4 COMMISSIONER ROSENFELD: Second.

5 CHAIRPERSON PFANNENSTIEL: All in favor?
6 (Ayes.)

7 CHAIRPERSON PFANNENSTIEL: Thank you.

8 MS. GARFIELD JONES: Thank you,
9 Commissioners.

10 CHAIRPERSON PFANNENSTIEL: Item 6,
11 Possible approval of a clause to clarify the
12 selection and use of royalty payment provisions in
13 contract 500-05-021 with the Regents of the
14 University of California at Merced.

15 MR. LOZANO: Good morning; my name is
16 Michael Lozano with the PIER natural gas
17 industrial ag water team. This project addresses
18 the need for cost effective solar systems for
19 industrial application.

20 This contract has already been approved
21 at a Commission business meeting. Subsequent
22 concerns by UC Merced have necessitated a proposed
23 revision to the term and conditions of the
24 agreement.

25 UC Merced has partnered with Sol Focus.

1 Sol Focus is a matched participant. Sol Focus
2 will take UC Merced intellectual property and try
3 to mass produce solar collectors. Sol Focus does
4 not want to be responsible for paying royalties to
5 the Commission, and they want to limit the royalty
6 obligations.

7 Basically this clause clarifies what has
8 already been agreed between UC and the Commission
9 as to royalty agreements.

10 CHAIRPERSON PFANNENSTIEL: Thank you.
11 Are there questions?

12 COMMISSIONER ROSENFELD: I move the
13 item.

14 COMMISSIONER GEESMAN: Second.

15 CHAIRPERSON PFANNENSTIEL: All in favor?
16 (Ayes.)

17 CHAIRPERSON PFANNENSTIEL: It's been
18 approved, thank you.

19 MR. LOZANO: Thank you.

20 CHAIRPERSON PFANNENSTIEL: Item 7,
21 Possible approval of amendment 1 to contract 500-
22 05-039 with Landfills+, Inc., to extend the
23 contract one year and change the terms and
24 conditions. Good morning.

25 MR. ELLIS: Good morning, Commissioners.

1 My name is Brian Ellis; I'm the CEC Contract
2 Manager for this project. And I'm seeking
3 approval for an amendment to an existing contract,
4 as you said, with Landfills+, Incorporated, the
5 small business of a major landfill gas scientist.

6 And this project has been delayed
7 several months because of a problem with
8 retention. And this amendment will make a minor
9 change to the terms and conditions, removing
10 retention from two large public subcontractors.

11 And this research project involves the
12 development and field validation of a model that
13 will greatly improve the California greenhouse gas
14 inventory for landfills. And the Integrated Waste
15 Management Board is collaborating with us on this
16 project, because landfills are a major source of
17 methane, and because emissions estimates for
18 landfills are very -- contain large and
19 problematic uncertainties.

20 The amendment, based on advice from
21 Legal, will first extend the contract one year to
22 make up for lost time and provide a better cushion
23 at the end for the final report. Since the
24 contract began Landfills+ has been unable to
25 finalize their subcontracts with U.S. Department

1 of Agriculture and with Florida State University
2 due to uncertainty over the retention requirement.

3 The second change, based on advice from
4 Legal, will adjust the terms and conditions to
5 remove the 10 percent retention requirement on
6 funds for the two public subcontractors.

7 And the Energy Commission has, in past
8 agreements, been flexible with regard to retention
9 for public institutions. And the contractors' own
10 expenditures will remain subject to retention.

11 CHAIRPERSON PFANNENSTIEL: And just let
12 me make sure, this is a PIER natural gas project?

13 MR. ELLIS: That's right.

14 CHAIRPERSON PFANNENSTIEL: Questions?

15 COMMISSIONER ROSENFELD: I move the
16 item.

17 COMMISSIONER GEESMAN: Second.

18 CHAIRPERSON PFANNENSTIEL: All in favor?

19 (Ayes.)

20 CHAIRPERSON PFANNENSTIEL: Thank you.

21 MR. ELLIS: Thank you.

22 CHAIRPERSON PFANNENSTIEL: Item 8,
23 Possible approval of contract 600-06-001 for
24 \$16,039 with the University of California at
25 Berkeley to conduct a macro-economic impact study

1 of government initiatives to increase the use of
2 alternative transportation fuels in California.
3 Good morning.

4 MR. GAUTAM: Good morning, Madam
5 Chairman and Commissioners. My name is Asish
6 Gautam; I'm in the emerging fuels and technology
7 office within the fuels and transportation
8 division. And I will be the Contract Manager for
9 this economic analysis to help support the AB-1007
10 report.

11 We selected Peter Burke from UC Berkeley
12 to conduct the study because he's considered a
13 leading expert in economic modeling; and because
14 he has developed a widely accepted economic model
15 called E-DRAM. This particular model will be used
16 by the Air Resources Board in their climate action
17 report. This contract will help insure
18 consistency in the economic analysis of the 1007
19 with the climate action report.

20 The Transportation Committee has
21 approved of this contract, and we seek approval to
22 enter into contract with the University of
23 California. I'll take any questions you have now.

24 CHAIRPERSON PFANNENSTIEL: Are there
25 questions? Yes, Commissioner Byron.

1 COMMISSIONER BYRON: We spent
2 considerable time discussing this in the
3 Transportation Committee. It feeds into the AB-
4 1007 report, and is a relatively small contract.
5 So, I just wanted to reiterate the Transportation
6 Committee did approve this recently.

7 CHAIRPERSON PFANNENSTIEL: Thank you.
8 Commissioner Geesman, did you have a question?

9 COMMISSIONER GEESMAN: No.

10 CHAIRPERSON PFANNENSTIEL: Is there a
11 motion?

12 COMMISSIONER ROSENFELD: I move the
13 item.

14 COMMISSIONER GEESMAN: Second.

15 CHAIRPERSON PFANNENSTIEL: All in favor?

16 (Ayes.)

17 MR. GAUTAM: Thank you.

18 CHAIRPERSON PFANNENSTIEL: Thank you.

19 And I understand the next two items on
20 the agenda have been withdrawn.

21 So we have approval of the minutes of
22 the October 30th business meeting. Is there a
23 motion to approve those minutes?

24 COMMISSIONER ROSENFELD: So moved.

25 COMMISSIONER GEESMAN: Second.

1 CHAIRPERSON PFANNENSTIEL: And with a
2 second.

3 All in favor?

4 (Ayes.)

5 CHAIRPERSON PFANNENSTIEL: Any
6 Commission Committee presentations or discussions?
7 Hearing none, Chief Counsel report, Mr.
8 Blees.

9 MR. BLEES: Thank you, Chairman
10 Pfannenstiel, Commissioners. One brief item.
11 Last year a number of states led by New York and
12 including California, actually both the Energy
13 Commission and the California Attorney General's
14 Office, brought suit against the U.S. Department
15 of Energy. DOE had fallen behind by as much as
16 ten or more years in the achievement of federal
17 statutory deadlines for the adoption and amendment
18 of energy efficiency standards for federally
19 regulated appliances.

20 I'm happy to report that two days ago,
21 on Monday, the Federal District Court Judge signed
22 a consent decree that had been entered into by the
23 state parties and DOE. It establishes reasonably
24 fast deadlines for DOE to act, and adds now the
25 additional sanction of the possibility of contempt

1 of court actions being brought against DOE
2 officials.

3 So, certainly the proof will be in the
4 as-yet unbaked pudding, but at least we're getting
5 some of the ingredients together and the recipe is
6 there.

7 CHAIRPERSON PFANNENSTIEL: Excellent.
8 Good news, thank you.

9 COMMISSIONER ROSENFELD: And I know
10 Jonathan worked very hard on that case. So,
11 congratulations.

12 MR. BLEES: Thank you.

13 CHAIRPERSON PFANNENSTIEL: Executive
14 Director report.

15 EXECUTIVE DIRECTOR BLEVINS: I have no
16 report.

17 COMMISSIONER GEESMAN: Question.

18 CHAIRPERSON PFANNENSTIEL: Yes,
19 Commissioner Geesman.

20 COMMISSIONER GEESMAN: B.B., I think you
21 were copied in on the letter that the California
22 Wind Energy Association sent to Chair Pfannenstiel
23 and copied the rest of us. And I want to be
24 scrupulous about observing the appropriate line
25 between Commissioner activity and management

1 prerogatives.

2 But I think that the letter does raise a
3 number of concerns that do rise to Commissioner
4 status; and in fact, they specifically ask for a
5 Commissioner or Commission response. In their
6 words: We believe that a response from the
7 Commission is warranted."

8 My own belief is that's something that
9 you and the Chair need to determine what the
10 appropriate format is. But some of the questions
11 that they raise are questions that I think reflect
12 on all of us.

13 I don't want to, in any way, relitigate
14 or revisit the Altamont work that the Commission
15 did a couple years ago. And, in fact, the
16 Renewables Committee has implored the participants
17 in our avian guidelines process to move on from
18 the Altamont and not allow our discussion of
19 guidelines to be preoccupied by that earlier work.

20 Nevertheless, you did set in motion a
21 peer review process for that earlier work. It's
22 been quite awhile now. I know the first effort in
23 doing so was a bit of a -- well, a botched effort,
24 frankly. The second effort I'm not aware of where
25 it stands, but I think we need to bring this to a

1 timely close.

2 They've also requested that we post on
3 our website reviews of our consultants' work. My
4 own belief is that what goes on our website is a
5 management determination, and nothing that
6 ordinarily Commissioners would be involved in
7 determining.

8 And I guess finally they raise what, to
9 me, are some troubling questions as to the
10 availability of data from our earlier consultant
11 work. And they ask for an explanation of why that
12 data's not been made available to them. They make
13 reference to a Public Records Act request that
14 they've made.

15 All of those, in my judgment, are within
16 management's purview. But I do think that we need
17 to address this in a timely way. And I'd ask you
18 to bring your suggested response back in front of
19 the Commission at some point in December.

20 EXECUTIVE DIRECTOR BLEVINS: Starting
21 with the last request first, we'll bring that
22 suggested response back. That's not a problem.

23 I'm very familiar with the data
24 request -- I mean the information request. And
25 that, there's a lot of process surrounding that,

1 as you know; and there's also a question of which
2 data is ours to release and which is not.

3 The website issue, that's -- we'll
4 definitely take a look at that. And I have not,
5 in terms of the second peer review, I know that
6 that's underway. I have not recently asked with
7 the end timeframe is on that. So I'll do that, as
8 well.

9 And we will obviously try to respond to
10 some of the specific statements in the letter
11 relative to the suggested response.

12 COMMISSIONER GEESMAN: Thank you.

13 EXECUTIVE DIRECTOR BLEVINS: I
14 appreciate you bringing it to my attention.

15 CHAIRPERSON PFANNENSTIEL: Thank you. I
16 understand there will be no Leg Director's report
17 today. Public Adviser's report, Ms. Kim.

18 MS. KIM: Yes, just in case some of you
19 may not know, I took a short leave of absence and
20 I was completing my Fulbright in Beijing. So, I'm
21 back.

22 I have a couple of --

23 CHAIRPERSON PFANNENSTIEL: Welcome back.

24 MS. KIM: Thank you. I have a couple of
25 items. One is the siting guidebook which has not

1 been revised since 1999. It is revised now.
2 We've worked with the Siting Office, Hearing
3 Office, the Legal Office and the Executive Office
4 Media. And it will go to print next week.

5 The other item is --

6 COMMISSIONER GEESMAN: I think that's
7 real timely, given the large influx of new siting
8 cases that we have. And they're in areas of the
9 state that I think have not previously had any
10 contact with us. So, I commend you for doing
11 that.

12 MS. KIM: Thank you. The other item is
13 next week we have some visitors from all over
14 China; 15 people, visitors. As you may know, 70
15 percent of all power plants are being sited in
16 China. And these are mostly -- well, these are
17 all coal power plants.

18 And this year they passed a law on
19 public participation in the siting, as well as
20 kind of a CEQA-equivalent process. And that we
21 use the Energy Commission as the model, our
22 process.

23 And finally, they are visiting us to
24 hear from some of our siting people and others to
25 get more information. And this is something that

1 they have to implement throughout the country.

2 So, I thought perhaps you should know
3 about that.

4 CHAIRPERSON PFANNENSTIEL: Thank you
5 very much.

6 Anything else? Is there any other
7 public comment? Harriet, is there anybody on the
8 phone to speak to us?

9 All right, we'll be adjourned.

10 (Whereupon, at 10:32 a.m., the business
11 meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Business Meeting; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
meeting, nor in any way interested in outcome of
said meeting.

IN WITNESS WHEREOF, I have hereunto set
my hand this 8th day of November, 2006.

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